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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,580	06/19/2001	Stephen J. Boies	YOR920000496US1	2574
35526	7590	08/28/2009		
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER CASLER, TRACI	
			ART UNIT 3629	PAPER NUMBER
			NOTIFICATION DATE 08/28/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/884,580	<b>Applicant(s)</b> BOIES ET AL.	
	<b>Examiner</b> Traci L. Casler	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This action is in response to papers filed on August 12, 2005.

Claims 1—3, 7, 8, 14-16, 20-21, 27-29 and 31-39 have been amended.

Claims 1-39 are pending.

Claims 1-39 are rejected.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent publication 20020068986 Mouline Adaptation of Audio data files based on personal hearing profiles; in view of US Patent 6535132 Waters et al Targeted Information Display. Hereinafter referred to as Mouline and Waters.

3. As to claims 1, 17 and 27 Mouline teaches a system, method and apparatus for:

4. automatically receiving, from a device carried by a user, an identification of the user in a processing device; (**Pg. 2 ¶ 24 user providing identification via a user computer**)

5. using said identification of the user to determine one or more physical limitations of the user regarding receipt and/or interpretation of the information content and (**Pg. 2 ¶ 25 Scaling module is used according to profile data and information relating to the users hearing characteristics**)

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6. outputting information content to the user based on the one or more physical limitations of the user.(Pg. 3 ¶ 25 **data is delivered as an output as preferred by the user**).

7. Moulin fails to teach “automatically” receiving the identification of the user from a device, however, Waters teaches automatically detecting users in a presence zone and using the profile to target information displays(C. 2 I. 22-24; C. 3 I. 63-65). It would have been obvious to one skilled in the art at the time of invention to combine Waters automatic detection with Mouline's data customization method as the instant invention is simply a combination of two known processes and when combined they would still perform the same as they did separately, thus leading one to yield predictable results.

8. As to claims 2-3, 6, 11-13, 15-16, 19, 24-26, 28-29, 32 and 37-39 Moulin teaches the user profile identifies/determines the users physical limitation(Pg. 3 ¶ 30).

9. As to claims 4-5, 9-10, 17-18, 22-23, 30-31 and 35-36 Moulin teaches outputting information according the user physical limitations. (Pg. 3 ¶ 25; Pg. 3 ¶ 27-29).

10. As to claims 7, 20 and 33 Moulin teaches the user selecting the audio files they wish to listen to.(Pg. 2 ¶ 24; Pg. 1 ¶ 15).

11. As to claims 8, 21 and 34 Moulin fails to teach the identification received by one of the claimed means, however, Waters teaches the device being a bluetooth device, and transmitting wirelessly(C. 3 I. 62-66). It would have been obvious to one skilled in the art at the time of invention to combine Waters wireless device with Mouline's data customization method as the instant invention is simply a combination of two known

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processes and when combined they would still perform the same as they did separately, thus leading one to yield predictable results.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

13. Applicants arguments are all directed to the newly added limitation via the amendment. As such the limitations in question have been addresses above according to the newly cited prior art.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The applicant is invited to review additional references submitted on PTO-892 for further guidance on the state of the art of the instant invention.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday, Tue-Friday 7:00 am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Traci L Casler/  
Examiner, Art Unit 3629